

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-1462

No. 04-1523

MASSARO LIMITED PARTNERSHIP (PARK WEST TWO),
a Pennsylvania Limited Partnership

v.

BAKER & TAYLOR INC., a corporation,

Appellant in No. 04-1462

MASSARO LIMITED PARTNERSHIP (PARK WEST TWO),
a Pennsylvania Limited Partnership,

Appellant in No. 04-1523

v.

BAKER & TAYLOR INC., a corporation

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

District Court No. 00-cv-01234
District Judge: The Honorable Gary L. Lancaster

Argued July 14, 2005

Before: ALITO, VAN ANTWERPEN, and ALDISERT, Circuit Judges

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Western District of Pennsylvania and was argued on July 14, 2005. On consideration whereof, it is now ORDERED and ADJUDGED by this Court that the order of the District Court entered June 29, 2001, be and hereby is AFFIRMED; that the order of the District Court entered February 6, 2004, be and hereby is REVERSED; and that this matter is REMANDED to the District Court. Costs taxed against Massaro Limited Partnership (Park West Two). All of the above in accordance with the opinion of this Court.

ATTEST:

Marcie M. Waldron

Clerk

Dated: December 15, 2005

Certified as a true copy and issued in lieu
of a formal mandate on 1/6/06

Marcie M. Waldron

Teste:
Clerk, U.S. Court of Appeals for the Third Circuit